G. 2-1-1860

Spl

Previous references.

190 .

(Gen: Fin)

File No. G 522

Serial Nos. 13 to 16

Later references.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 13 to 16

Part B. for October 1862

SUBJECT.

Extract from the Proceedings of Government, Financial Department, No. 157 G. dl 9.8.1862 on the subject of levying income tax on the salaries of Officers serving in Foreign States.

13. From the Offg Under Secy to Govt of India.
No. 470 dl 27th August 1862
Forwards for information & guidance the extract referred to above.

14. To the Judicial Commissioner.
No. 308 dl 26th Septr 1862
Forwards copy of the above for information with
To the Chief Engineer, Supdts of Astagram, Bangalore 2 Spare copies
Chitaldrug, Nagar, Police, Military Assistant & Surgeon in Charge, Mysore Commission.
Forwards to each Spare copies of the above

15. G. R. S. 58 From the Under Secy to Govt of India.
No. 537 dl 2nd October 1862.
Forwards copy of an Office Memo from the Secy to Govt, Fin: Dept dl 26th Septr, requesting to furnish Govt with a Statement in detail

shewing the places in India where Civil & Military officers appointed by Govt are treated as Residents &c.

16. To the Secy to Govt of India.

No. 314 of 30th October 1862.

Submits a return of all officers, Civil & Military serving in Mysore, appointed by the Govt of India & the Local Govt, shewing also the various officials drawing above Rs 500/- yearly from the Mysore revenues, with the Commissioner's views on the question of taxation, for the consideration of H.E. in Council.

9/8/62

G. Sls — 63 — 16

Extract from the Proceedings of Government Fin: Dept: No. 157 G dt/ 9. 8. 1882 on the subject of levying income tax on the salaries of officers serving in Foreign States.

No. 154.

EXTRACT from the Proceedings of the Government of India, in the Financial Department, d. 9th August 1862.

READ again the under-mentioned papers on the subject of levying Income Tax on salaries of Officers serving in Foreign States:—

Foreign endorsement, No. 4202, dated 17th September 1860.
Financial Resolution, No. 9594, dated 24th idem.
Telegram from Commissioner of Nagpore, dated 29th October 1860.
Financial Resolution, dated the 20th November 1860.
Letter from Commissioner of Nagpore, No. 110, dated 6th May 1861.
Financial Resolution, dated 20th June 1861.
Letter from Civil Pay Master, North-Western Provinces, No. 499, dated 12th February 1862, and its enclosures.
Letter to Ditto, in reply, No. 1809, dated 28th idem.
Endorsement from the Foreign Department, No. 2198, dated 31st March 1862.
Office memorandum from ditto, No. 472, dated 9th April 1862.
Financial Resolution, No. 3681, dated 23rd May 1862.

Read also endorsement from the Foreign Department, No. 959, dated 29th ultimo, forwarding a letter from the Political Agent, Bhurtpore, requesting exemption of himself and the Officers of that Agency from the Income Tax.

RESOLUTION.—IN August 1860, the Political Agent of Ulwar represented that the Civil Auditor had deducted Income Tax in the Agency pay bill for July; that the bill was cashed by the Ulwar Raj Treasury, the entire expenses of the Political Agency being borne by the Ulwar State, which had no monetary transactions, tributary or otherwise, with the Indian Government, and that the deduction by the Civil Auditor, therefore, amounted to the Ulwar State receiving the amount of the Income Tax and not the Government.

The Officiating Agent to the Governor General for the States of Rajpootana replied in the following terms—"Tax or no tax, you draw from the State a "certain income fixed on your appointment to Ulwar by our Government. Your "bill for that income is passed in the aggregate and chargeable to Ulwar. Our "Government taxes you 4 per cent. on your receipt, and not on what the State is "charged for your services at its capital."

This opinion was approved by Government, both in the Foreign and Financial Departments, in September 1860.

In October, the Commissioner of Mysore enquired whether Section 1 of Act 39 was intended to apply generally to the Native public servants of the Mysore State employed under the Commission in every branch of the Administration, or only to the European Officers.

In November, this Government observed, in reply, that under the Section referred to, the Native public servants in question appeared clearly to be subject to Income Tax if they received their appointments from "any Government or public servant of Her Majesty in India."

In May 1861, the Commissioner of Mysore again made a representation on the subject, and on the 20th June following, the Government resolved that Income Tax should be levied only upon such pay as any Officers in Mysore receive from the British Government.

In February 1862, the Officiating Political Agent, Bhurtpore, informed the Officiating Civil Pay Master, North-Western Provinces, that none of the servants of the Bhurtpore Agency received any pay whatever from the British Government, and that he concluded their salaries were exempt from Income Tax.

The Officiating Civil Pay Master referred the question to this Department, and the Governor General in Council considered "that the principle laid down in Financial Resolution, of 24th September 1860, under which the servants of Government in the Ulwar Political Agency were declared to be subject to the Income Tax, is of general application, and that accordingly the Officers of the Rajpootana Agency are subject to the tax."

In the same month, the Political Agent of Ulwar, quoting the order of 20th June 1861, claimed a refund of the Income Tax already paid by his Agency, and an order for exemption from the tax in future, on the ground that the expenses of the Agency are entirely defrayed by Ulwar.

After consulting the Foreign Department as to the last-mentioned fact, it was resolved, on the 23rd May 1862, in supersession of the orders of 24th September 1860 and 28th February last, "to exempt the Officers of the Political Agency of Ulwar from the operation of the Income Tax Acts, and to "authorize the refund to them of the sums already deducted under those Acts "from their pay."

Since the last of the above-mentioned orders was passed, several questions have arisen as to the legality of the order with reference to Section 1, Act XXXIX. of 1860, cited in the margin, and His Excellency in Council is of opinion that the question should be referred to the Legislative Department for consideration, together with a Statement, shewing in detail the places in India, not being that part of India which is vested in Her Majesty by the Statute 21 and 22 Vic. C. 106, entitled an Act for the better Government of India, (see C. Sec. 248, Act 32 of 1860) where Civil and Military Officers appointed by the Government of India, or any of the local Governments, are located on the part of Government as Residents, Governor General's Agents, Commissioners, or in any other capacity.

1. "The duties mentioned in Sections I and III, of the said Act (Act XXXII of 1860,) shall be collected and paid in respect of every public office or employment of profit in the Territories of any Foreign Prince or State in alliance with Her Majesty, held by any public servant within such Territories by virtue of an appointment made by any Government or public servant of Her Majesty in India, whether the salary or profits of such office or employment are paid out of, or derived from, the revenues of India or not."

In the meanwhile, pending legislative action, His Excellency in Council resolves that neither the orders of 23rd May last nor those at present in force elsewhere shall be interfered with.

ORDERED, that a copy of the above Resolution, together with the papers of the case, be sent to the Hon'ble H. B. Harington, with a view to the preparation of a Draft Act in amendment of Act 39 of 1860.

Ordered, also, that a copy of the Resolution be sent to the Foreign Department, for information.

Copy also to the Civil Pay Master of the North-Western Provinces, for information and guidance.

(A true Extract)

J. P. Grant.

Secretary to the Government of India.

~~Spl~~ No. 13

~~Spl No 522~~ No 440. G 7 3 1 — 1860

Copy forwarded to the Commissioner of Mysore for information.

Fort William
Foreign Dep.t
Revenue
24th August 1862.

By Order

H. Harington

Offg Under Secy to the Govt of India.

c 5

1862 No. 137

Recd Sept 16/62

From.

The Offg Under Secretary
to the Govt of India
Foreign Department
Fort William

Dated 2nd August
Recd 12th September

No. 440.

Forwards for information and guidance, Extract from the Proceedings of Government Financial Department No. 25 F.G. of 9 August 1862 on the subject of levying Income Tax on the Salaries of Officers serving in Foreign States.-

In circulation

12/9/62

No. 308. Sl No. 14

C.2.1-1860

Copy forwarded to the Judicial Commissioner in Mysore. for information with 2 spare copies

Bangalore
25th September
1860

"By Order"
J. L. Pearse
Secretary

Mans Copies

2	To the Judicial Commr
8	" Chief Enquiries
3	" Superintt of Astrogram
3	" " Bangalore
1	" " Chittledroog
1	" " Nundydroog
"	" " Police
"	" Military Assistant
1	" Surgeon in Charge Mysore Commission.

10
20
30 cm
U.S.

No. 501 G

Fort William

Financial Department

The 26th September 1862.

Office Memorandum.

Adverting to the Resolution passed in this Department, No. 157 G. dated the 9th August 1862, on the subject of levying Income Tax on Salaries of Officers serving in Foreign States, the undersigned has the honor to request that the Foreign Department will furnish this Department, as soon as possible, with a Statement showing in detail the places in India, not being that part of India which is vested in Her Majesty by the Statute 21 and 22 Vic C 106, entitled an Act for the better Government of India (See C2 Section 24 & Act 32 of 1860) where Civil and Military Officers, appointed by the Governments of India or any of the Local Governments, are located on the part of Government, as Residents, Governor General's Agents, Commissioners, or in any other capacity

/Sd/ C. Bernard

Under Secy: to the Govt of India

No.

7)

~~Sec No. 45~~
~~Dpl Jan 1862~~
No 537 G.J. 1-1860

Copy forwarded to Commissioner of Mysore with a request that a detailed Return of the kind required may be furnished with every possible expedition

By order &c.

Foreign Depart.
Revenue
The 2 Oct 1862

Allen

Under Secy to the Govt of India

1802

F. 163.

From

Under Secy Govt of

India. Fort

Fort William

Dy 2°

Dy 25 Oct.

No 557.

Forwards Copy of an

Office Memo from

the Secy to Govt Finl

Dept of 26 Sept. requesting

to furnish Govt with a

Statement - in detail shewing

the places in India where

Civil & Milty Officers appointed

by Govt are located as

Residents &c —

Let this List be prepared imme-

diately in the Treasury Dept.

D 25/10/02

F. 1 Dy 31st Encls.

Sir,

In obedience to the instructions conveyed in your letter No 501/G.J 26th ult: I have the honor to submit the accompanying returns of the personal, Officers Civil & Military serving in Mysore who have been appd by the Govt of India or by the Local Govt. The return also shows the number of Officials of various grades drawing more than 500 Rupees per mensem from Mysore accounts.

2. The question of taxation in relation to individuals serving in Mysore is beset with so many difficulties that I trust I may be pardoned for referring to them.

3. I conclude that it is not the intention of Govt to tax the Officers named because they have been appointed by the Govt of

income; but it is obvious that the case of Govt servants of a Foreign State residing in such foreign State is widely different. I take it for granted that the Govt would not wish to tax the Native employés who draw their pay from Mysore revenues. 5/ I have endeavored to show that it would be inexpedient to tax Govt Officers only & to leave Native Officials entirely holding similar positions free. While it would be equally unfair to exempt native employés from taxation which falls upon Europeans.

6. The Govt Officers in the Commissioner of Income Tax will of course cheerfully submit to any orders which the Govt of India may be pleased to give; but as the difficulties surrounding the question of payment of Income Tax strike me more forcibly here than they might elsewhere I have deemed it not out of place to submit the above for the consideration of H.E. in C.

of India or the Local Govt for
an order to this effect would
be applicable to all employés
in the Province for certain
rank, whether European or
native; while Mysore being
subject to Indian Territory, the tax
would leave the effect of a
fall on holding office rather
than fair equitable taxation
of our Revenue officers such as Mr Dobbs
& Mr Clark, both executive
officers who drew the same
pay & held the same position
as Capt Johnson & Capt
Palmer, and who it seems
here cannot be dealt with
on a different footing to the
disadvantage of the Commissioner
Officers. But if Uncovenanted
Officers are liable to taxation
it is impossible to draw
a line between European,
East Indian Native employés
for it would be useless
in accordance with the
principles of justice or the
best incidence of taxation to
exempt one class of servants
& make others pay. Moreover
as regards native officials
many of whom serving
Mysore were in fact subjects
before we administered the
country, while most of
them are subjects of the
Rajah residents in foreign
territory & might possibly
again become the servants of
and could not in that case
before administration.
however it appears to me
that it would not be equitable
to tax Mysore any European
officials without also taxing
the Coffee Planters & Rent
residents of the country and
the right to do this might also be contested.

4 If a Pensioner of the
Mysore State were residing
in British Territory he would
probably pay Income Tax because
he was enjoying the advantages
of British protection & law, from
whatever source he drew his

~~SE No. 16~~
~~Spe Rle 5~~ G. 7-1-1860 N

Mysore Commrs Office.

No 314.

From.

The Commissioner of Mysore
&c &c

To. The Secretary to the Govt
of India.
Foreign Department
Fort William.-

Sir.

Revenue" In obedience to the instructions conveyed in the ~~your~~ letter from the Financial Dept No 504 G. dated 26th Ultimo, I have the honor to submit the accompanying return of all Officers, Civil and Military, serving in Mysore who have been appointed by the Government of India or by the Local Government. The return also shows the

number

number of Officials of various grades drawing more than Rupees 500 yearly from Mysore Revenues.

2. The question of taxation, in relation to individuals serving in Mysore, is beset with so many difficulties, that I trust I may be pardoned for referring to them.

3. I conclude that it is not the intention of Government to tax the Officers' Incomes, solely because they have been appointed by the Government of India or the Local Government, for an order to this effect would, as regards the latter head, be applicable to all Employes in the Province,

of

of a certain rank. whether European or Native; while Mysore being Foreign Territory the tax would bear the aspect of a payment of a Monthly fee on holding office rather than of an equitable taxation. Again there are Uncovenanted Officers such as Mr. Dobbs and Mr. Clark, both Executive Engineers, who draw the same pay and hold the same position as Captain Johnson and Captain Palmer, and who it seems to me cannot be dealt with on a different footing to the disadvantage of the Commissioned Officers. This holds good also in the case of Mr. Roberts, an Assistant. — But if

Uncovenanted

Uncovenanted Officers are liable to taxation, it is impossible to draw a line between European, East Indian and Native employés, for it would be neither in accordance with the principles of Justice or the true incidence of taxation to exempt one class of Servants and make others pay. Moreover as regards Native Officials many of those serving in Mysore were in Govt. Employ before we adminis=tered the Country, while most of them are subjects of the Rajah, residents in foreign territory, and might hopefully again become the Servants of a Native Administration, and

Could

could not in that case be taxed.

4. If a Pensioner of the Mysore State were residing in British Territory he would of course pay Income Tax, because he was enjoying the advantages of British protection and law, from whatever source he drew his income; but it is obvious that the case of our Government taxing the Servants of a Foreign State residing in such foreign State is widely different. I take it for granted that the Govt. would not wish to tax the Native Employees who draw their pay from Mysore Revenues.

I

5. I have endeavoured to shew that it would be invidious to tax Covenanted Officers only and to leave Uncovenanted Officers untaxed when holding precisely similar positions, while it would be equally unfair to exempt Native Employés from taxation which falls upon Europeans.

6. The European Officers in the Commission will of course cheerfully submit to any orders which the Government of India may be pleased to give. But as the difficulties surrounding the question of payment of Income Tax strike ~~me~~ one more forcibly

forcibly here than they might elsewhere, I have deemed it not out of place to submit the above for the consideration of His Excellency in Council.—

I have &c.

Lawrence
Commissioner

Bungalow
31st Oct. 1862

WH

1862 No 314

To, The Secretary to the
Government of India,
Foreign Department,
Fort William.

Dated 30th October
Received

No 314

Enclosure 1.

I submit a Return of all
Officers Civil and Military
serving in Mysore, appointed
by the Govt of India and the
Local Govt, showing also the
various Officials drawing above
Rupees 500 yearly from the ex
Mysore Revenues, with the ex
Commissioner's views on the
question of taxation, for the consideration
of His Excellency in Council.

No 1 Dated 31st Instt